

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

JUN - 3 1998

In the Matter of)

Calling Party Pays Service Option)
in the Commercial Mobile Radio Services)

WT Docket No. 97-207

To: The Commission

**REPLY COMMENTS OF
THE RURAL TELECOMMUNICATIONS GROUP**

The Rural Telecommunications Group ("RTG"), by its attorneys, hereby respectfully submits these reply comments in response to the comments filed regarding the Petition for Expedited Consideration of the Cellular Telecommunications Industry Association ("CTIA" and "CTIA's Petition"), filed February 23, 1998, in the above-captioned proceeding. These reply comments affirm the assertion of RTG and the majority of commenters to the Petition that the Federal Communications Commission ("FCC" or "Commission") should proceed expeditiously to the issuance of a Notice of Proposed Rulemaking ("NPRM") to formally consider the adoption of a minimal number of uniform federal regulations that will facilitate the voluntary offering of the Calling Party Pays ("CPP") service option by commercial mobile radio service ("CMRS") providers.

DISCUSSION

A majority of commenters¹ urge the Commission to expeditiously issue an NPRM for the

¹ See Comments of Airtouch Communications, Inc. ("Airtouch"); Comments of Bell Atlantic ("Bell Atlantic"); Comments of CTIA; Comments of Motorola, Inc. ("Motorola"); Comments of Nextel Communications, Inc. ("Nextel"); Comments of Omnipoint Communications, Inc. ("Omnipoint"); Comments of the Association for the Promotion and Advancement of Small Telecommunications Companies ("OPASTCO"); Comments of the Rural Cellular Association ("RCA"); Comments of RTG; Comments of Sprint Spectrum L.P. d/b/a/

purpose of continuing the fresh discussion of the least intrusive means to facilitate the voluntary offering of successful CPP service by CMRS providers. Only three parties oppose CTIA's request, to varying degrees. The substance of the opposing arguments is refuted below.

AT&T Wireless Services, Inc. ("AWS") agrees with CTIA and CTIA's supporters that there are potential benefits to be reaped from the wider availability of CPP, and it acknowledges that "the Commission has broad authority to prevent restrictive practices that would frustrate the development of CPP."² AWS also submits, however, that a rulemaking at this time would be premature, insofar as CPP service is still evolving and the imposition of regulations on the service could stifle innovative approaches to CPP development.³ AWS then describes an arrangement it has with AT&T Corp., in which AT&T Corp. has provided AWS with unique dialing numbers to be used as mobile identification numbers ("MINs") for AWS's CPP customers, and a billing arrangement in which calls are billed to the calling party "using AT&T Corp.'s existing billing arrangements with customers and LECs."⁴

AWS's solution to the difficult problem of billing and collecting for CPP service sounds great. RTG would point out, however, that not everyone has an uncle in the carpet business. AWS's relationship with AT&T Corp. allows them to provide CPP service with far fewer negotiating burdens and less local exchange carrier ("LEC") stonewalling than a typical CMRS provider with no existing affiliations within the industry. RTG agrees with AWS that the Commission should carefully craft regulations so as not to stifle CPP development. RTG would

Sprint PCS ("Sprint"); Comments of Vanguard Cellular Systems, Inc. ("Vanguard").

² AT&T Comments at 1-2.

³ *Id.* at 2.

⁴ *Id.* at 3.

not support restrictions on the provision of CPP service, but would welcome a minimal regulatory framework on which CPP service providers could rely in the event that necessary cooperation from LECs for the provision of CPP service is not forthcoming.

The United States Telephone Association (“USTA”) opposes CTIA’s petition on the grounds that the marketplace, not regulation, should govern the deployment of CPP service.⁵ On the importance of allowing market forces to dictate the deployment of CPP, the majority of commenters to both the Notice of Inquiry (“NOI”)⁶ and the instant petition would agree with USTA. It is not the intent of CTIA or its supporters that the Commission should adopt regulations that drive the deployment of CPP service.⁷ Indeed, the consensus of the interested parties in this proceeding is that market forces alone should dictate whether a CMRS provider offers CPP service.⁸ The ability of a CMRS provider to successfully implement the CPP service option, however, is intrinsically connected to its ability to bill and collect for CPP service from an educated public with whom the CMRS provider has an enforceable contractual relationship. It is only these issues that CTIA and others wish to see addressed through minimal but effective uniform regulation.

RTG agrees with USTA that “[t]he ingenuity of service providers and manufacturers, not regulation, should drive the deployment” of CPP caller notification.⁹ Consistent with USTA’s

⁵ Comments of USTA at 1.

⁶ *In re Calling Party Pays Service Option in the Commercial Mobile Radio Services, Notice of Inquiry*, 12 FCC Rcd 17693 (1997).

⁷ *See, e.g.*, Airtouch Comments at 2; Bell Atlantic Comments at 2; Motorola Comments at 3; OPASTCO Comments at 2-3; RCA Comments at 1-2; RTG Comments at 3-4.

⁸ *Id.*

⁹ USTA Comments at 5.

desire, an NPRM will provide a forum for the industry's discussion and ultimate choice of the best calling party notification scheme. Once an industry solution has been reached for calling party notification procedures, there is no reason why "the content of such procedures [should] var[y] slightly with location"¹⁰ as proposed by USTA. When it comes to educating the general public, a single lesson is more easily learned than rules with variations. It is infinitely practical for the industry to develop a single, uniform calling party notification procedure that the Commission can codify and all can rely upon.

USTA's recommendation with respect to the creation of binding obligations for payment between CPP service providers and calling parties illustrates why an NPRM is necessary. USTA would have the Commission "declare, based on the record compiled in this docket and pursuant to section 1.2 of its rules, that CMRS providers, as common carriers, have the right to collect, or to contract with others to collect, charges from callers for completed call to CMRS phones"¹¹ USTA's idea may or may not be feasible with respect to solving the issue to which it relates — it is, however, an idea that ought to be considered fully, including a comprehensive analysis of whether such a declaration has the legal "teeth" CMRS providers require to truly have collections enforced. Since USTA's suggestion is not within the category of rules that the Commission may adopt without prior notice,¹² USTA should embrace a forthcoming NPRM as an opportunity to present a thorough version of its argument.

BellSouth Corporation ("BellSouth") is the most vehement opponent to CTIA's petition, yet provides the least amount of valid support for its opposition. BellSouth states that "there is

¹⁰ *Id.*

¹¹ *Id.* at 8 (citation omitted).

¹² 47 C.F.R. § 1.412(b)(1-5).

substantial disagreement in the industry on how to proceed” with CPP service implementation.¹³

BellSouth supports this statement by citing to the comments of Airtouch, Motorola, the Personal Communications Industry Association (“PCIA”), Sprint and USTA, for the proposition that parties oppose a federally mandated CPP service offering and detailed federal regulations concerning when, where and whether CPP is implemented.¹⁴ It is true that these, and other commenters, including RTG, oppose heavy federal mandates governing CPP service. Contrary to BellSouth’s assertion, however, opposition does not “demonstrate that there exists significant uncertainty and disagreement concerning . . . Commission regulatory intervention in the domestic CPP arena”¹⁵ The opposition to which BellSouth refers demonstrates overwhelming agreement within the industry that a minimal degree of federal regulation should be imposed on CPP service.

BellSouth counsels the Commission to formulate a “deliberated, not hasty, response” to CPP service issues, to which RTG agrees. No party in this proceeding has requested that the Commission provide a “hasty,” rather than “deliberated” order on CPP service issues. A request for the expedited release of an NPRM *is not* a request for a hasty decision on the part of the Commission. It is merely a request to move forward with the completion of the fullest record possible on CPP service issues *now*, rather than later. RTG would expect and hope that after the expedited release of an NPRM and the collection of comments to that NPRM, the Commission would avail itself and all interested parties of sufficient time to evaluate the comments and the existing record prior to releasing final decisions on the matter.

¹³ BellSouth Comments at 2 (emphasis in original).

¹⁴ *Id.* n. 4.

¹⁵ *Id.*

BellSouth points to the lack of an influx of empirical information on the offering of CPP service as a sign that the time is not ripe for a rulemaking on this subject.¹⁶ To the contrary, this lack of empirical information serves as evidence to support the wireless industry's exhortation that without the minimal federal intervention requested with respect to FCC jurisdiction, billing and collection assistance, uniform calling party notification, and the ability to create binding payment obligations between CPP service providers and the public, CPP service simply will not proliferate. Indeed, without a federal kickstart there is unlikely to be sufficient empirical data to make the type of analysis sought by BellSouth.

Without a doubt, commenters agree that "the Commission should allow the marketplace to guide the development of CPP in this country."¹⁷ Such market-driven development and a minimal number of federal regulatory guidelines are not mutually exclusive. The latter shall permit the former to flourish.

On a final note, RTG implores the interested parties to this proceeding to abandon the "us" versus "them" debate to the extent that it perpetuates the fallacy that providers of wireless services and their customers are taking advantage of naive and innocent wireline customers.¹⁸ Keep in mind that wireless and wireline customers are not yet distinct groups, but rather, wireless customers are also wireline customers. There may come a time when consumers will choose one or the other as their sole method of telephone service, but that time has not arrived. In fact, it might be safe to say that there are wireline providers who hope that time will never come, and who oppose the unfettered offering of CPP service because of the potential this service bears for

¹⁶ *Id.* at 3.

¹⁷ *Id.* at 4 (citation omitted).

¹⁸ See e.g., Comments of Ohio Public Utilities Commission at p. 5.


the equalization of the functioning of wireless and wireline services. Obstructing the development of services like CPP for anticompetitive purposes will not be tolerated by Congress, the Commission , the wireless industry or the public.

CONCLUSION

RTG respectfully requests that the Commission take full advantage of the industry's present focus on CPP service to expeditiously issue an NPRM to expand the record on the issues raised by CTIA and other interested parties.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Jacqueline Jenkins, an employee in the law firm of Bennet & Bennet, PLLC hereby certify that a copy of the foregoing Reply Comments of the Rural Telecommunications Group has been served, via first-class postage pre-paid mail this 8th day of June, 1998 on the following:

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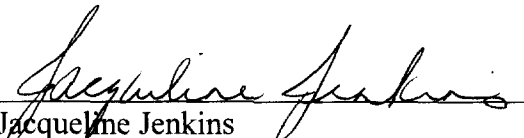
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